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NEW HAMPSHIRE LAW LIBRARY

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CONCORD, N.H.

1953

Dec. 14

His Excellency, Governor Hugh Gregg  
State House

Dear Governor Gregg:

You have this date requested our opinion on the question whether the Liquor Commission must refuse to renew the permit of a beverage manufacturer in the event that the town in which the manufacturer's operations are conducted should by vote, and pursuant to local option, reject the provisions of R. L. c. 170. The question is not one easy of resolution; I have carefully searched the files in this office and find the present question to be one of first impression with us. It would seem, however, that a reasonable interpretation of the statute would authorize the issuance of a manufacturer's permit regardless of whether or not the town accepts the provisions of the chapter.

The pertinent question submitted to the voters at each biennial election is as follows:

"(b) 'Shall malt beverages (beer) be sold by permission of the state liquor commission in this city or town?'"

The statute continues:

"If a majority of the qualified voters present and voting at any biennial election of a city or town signifies the disapproval of the question (b) above, then the commission shall not issue permits in said city or town under the provisions hereof.

"If a majority of the qualified voters present and voting at any biennial election of a city or town signifies the approval of question (b) above, then the commission may at its discretion issue permits hereunder." R. L. c. 170 s. 43.

Under the provisions of R. L. c. 170 s. 57 a permit is required of any person who shall manufacture any beverage. By R. L. c. 170 s. 61

December 14, 1953

"Manufacturer's permits shall authorize the permittee to manufacture beverages and to sell the same in barrels, bottles, or other closed containers to other permittees for resale only, and to transport the same to the state boundary."

Here we required to consider only that portion of R. L. c. 170 s. 43 which sets forth the action to be taken upon a disapproval of the local option question it would be clear that a manufacturer's permit could not be issued in a "dry" town. We may, however, in our opinion also consider the question submitted under the provisions of the section last cited. The voters are asked if beverages shall be sold in the city or town. The voters are asked, in effect, whether local citizens shall be permitted to procure beverages through local outlets. No inquiry is made as to the voters' views on other activities in respect to beverages.

We may then hold that the permits which, under the provisions of R. L. c. 170 s. 43 "the commission shall not issue" are those which relate to the sale of beverages for local use and consumption. From such holding it would follow that permits not dealing with local sales may be issued regardless of the vote of the town. Such view would permit the issuance of a manufacturer's permit whether or not the city or town accepts the provisions of the statute under consideration.

Very truly yours,

Warren E. Waters  
Deputy Attorney General

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